

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: July 1, 2008

PLACE: Davy Crockett Tower – Room 160
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
Worrick Robinson

PRESENT: Staff Members:
Donna Hancock, Interim Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Interim Director Donna Hancock called the roll.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to adopt the meeting agenda as presented.

MOTION CARRIED

MINUTES:

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to *approve the minutes of May 13, 2008 meeting as written.*

MOTION CARRIED.

PROPOSED RULE CHANGE DISCUSSION

Attorney Bond presented the Board members with a copy of the proposed Rule changes. The Board objected to holding the discussion without an opportunity to review the proposed rules first.

Board policies was the next item to discuss. Attorney Bond stated the current policies would be addressed in the proposed Rule changes.

Attorney Bond then presented an issue to the Board regarding Judgment Purchasers and Debt Purchasers and called for a discussion on whether they qualify for exemption under the statutes.

The consensus of the Board was if the Judgment or Debt Purchasers purchase the debt and intends to engage in collection activity, they must be licensed as a collection agency and that agency must have a licensed location manager affiliated with it.

The Board also determined that if the Judgment or Debt Purchasers, purchase the debt and do not intend to engage in collection activity, they do not have to have a collection agency license.

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY

DISCLAIMER

This Board is in no way responsible for the legal report. The report is presented to the Board by the Staff Attorney (Terrance Bond).

1. Case No. L-08-CSB-RBS-200800634-1

Complainant alleges that Respondent is calling her in order to locate a third party and that she does not wish to receive such calls. Respondent asserts that calls were made in an effort to locate an individual believed to reside at the Complainant's address (based upon a change of address notice that Respondent received from the USPS identifying the Complainant's address as the new residence of the alleged debtor). Respondent provided documentation indicating that it has removed the Complainant's contact information from its files and ceased all communication with her.

Recommendation: Close with no action.

Board: Concurs.

2. Case No. L-08-CSB-RBS-200800710-1

Complainant alleges that Respondent refused to provide documentation validating a debt that purportedly arose from transactions made on a commercial account.

Recommendation: Close with no action.

Board: Concurs.

3. Case No. L-08-CSB-RBS-200801257-1

Complainant alleges that Respondent's calculation of the complainant's alleged debt is "unprofessional". Complainant disputes collection efforts and requests assistance from

the Department in obtaining information from the Respondent relative to the disability claim that Complainant filed in response to the Respondent's collection efforts. Respondent asserts that Complainant's account was handled professionally and within contractual requirements set by the Department of Education. Respondent states further that the account has been returned to the Department of Education.

Recommendation: Close with no action.

Board: Concurs.

4. Case No. L-08-CSB-RBS-200801024-1

Complainant alleges that Respondent called him eight (8) times and requested to speak to his father concerning a debt asserted to be owed by the father. Complainant alleges further that after being told during the initial conversation that his number would be removed from Respondent's records, but that the Respondent continued to call the Complainant.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$1,000.00.

Board: Concurs.

5. Case No. L-08-CSB-RBS-200800953-1

Complainant alleges that Respondent's agent used foul language during a call concerning a delinquent commercial account.

Recommendation: Close with no action.

Board: Concurs.

6. Case No. L-08-CSB-RBS-200800869-1

Complainant alleges that Respondent continued to contact him by phone after he made a written "cease verbal communication" demand. Respondent asserts that calls made subsequent to the request were made to a number that was not known by Respondent to be Complainant's number (although it was Complainant's number) because it was associated with a different consumer at a different address. Respondent indicates that all numbers belonging to the Complainant have been removed and that the collection account has been returned to the master account holder.

Recommendation: Close with no action.

Board: Concurs.

7. Case No. L-08-CSB-RBS-200800862-1

Complainant states that she received correspondence from Respondent advising that adverse credit reporting would occur unless she paid her outstanding balance within

fourteen days of the letter draft date. Complainant acted within the prescribed period, and was told by an agent of Respondent that adverse credit reporting had already occurred. Respondent states that no credit reporting ever occurred on the account due to the timely payment by the Complainant. Respondent could not confirm or deny whether the statements allegedly made by its agent concerning past negative credit reporting were made.

Recommendation: Issue a letter of warning re: false, deceptive or misleading practices.

FINAL RECOMMENDATION: Authorize formal hearing with authority to settle by Consent Order of \$500.00. Order to CEASE AND DESIST false and misleading practices.

Board: Concurs.

8. Case No. L-08-CSB-RBS-200801278-1

Complainant alleges that Respondent, a first-party entity, made repeated calls to his residence concerning an account belonging to an individual with a similar name.

Recommendation: Close with no action.

Board: Concurs.

9. Case No. L-08-CSB-RBS-200800212-1

Complainant alleges that Respondent, a first-party entity, received repeated calls at her home during which Respondent requested to speak to someone who does not and has never lived at her home.

Recommendation: Close with no action.

Board: Concurs.

10. Case No. L-08-CSB-RBS-200800968-1

Complainant alleges that Respondent failed to provide him with validation of the debt that it alleged he owed. Respondent states that the Complainant did not make the request within the statutory thirty (30) day window and that Respondent was entitled to assume the validity of the debt.

Recommendation: Close with no action.

Board: Concurs.

11. Case No. L-08-CSB-RBS-200801213-1

Complainant alleges that Respondent did not respond to her request for validation of the debt that Respondent asserted that she owed. Respondent states that Complainant did not request validation until nearly three (3) years after the initial placement of the account and that the account had already been returned to the master holder at the time the validation request was received.

Recommendation: Close with no action.

Board: Concurs.

12. Case No. L-08-CSB-RBS-2008001175-1

Complainant alleges that Respondent, a collection law firm, made statements to his father concerning a collection account asserted to be his that invaded in his privacy and constituted defamation of character.

Recommendation: Close with no action.

FINAL RECOMMENDATION: Advise Complainants as to proper parties to whom complaint should be addressed.

Board: Concurs.

13. Case No. L-08-CSB-RBS-200801027-1

Complainant alleges that Respondent has ignored his requests for validation of the debt that they assert that he owes and continues to report negative information on Complainant's credit report without also noting that the account is disputed. Respondent states that it did provide validation consistent with statutory requirements to the Complainant and that the Complainant's account has been noted as disputed since 2005.

Recommendation: Close with no action.

Board: Concurs.

14. Case No. L-08-CSB-RBS-200800208-1

Complainant alleges that Respondent, a first-party service provider, overcharged him for services rendered.

Recommendation: Close with no action.

Board: Concurs.

15. Case No. L-08-CSB-RBS-200801026-1

Complainant alleges that Respondent continues to charge him “predatory” interest rates and makes threatening phone calls to him in an effort to collect a debt from him.

Recommendation: Close with no action.

Board: Concurs.

16 Case No. L-08-CSB-RBS-2008001110-1

Complainant alleges that Respondent wrongfully initiated collection procedures against her for an amount she did not owe. Respondent states that Complainant does have an outstanding balance subject to collection and that the Complainant is mistaken as to the origin of the unpaid debt.

Recommendation: Close with no action.

Board: Concurs.

17. Case No. L-08-CSB-RBS-200801109-1

Complainant, who has power-of-attorney for her mother, the alleged debtor, alleges that Respondent has contacted her mother in an effort to reach an individual with a similar name who has a delinquent account allegedly subject to collection. Respondent states that it was provided erroneous information and has closed the account and removed all information pertinent to the Complainant’s mother from its files.

Recommendation: Close with no action.

Board: Concurs.

18. Case No. L-08-CSB-RBS-200801195-1

Complainant alleges that the Respondent engaged in unlicensed activity. Respondent admits that it did engage in such activity and states that it acted according to the mistaken belief that being licensed, bonded and insured in the state of their operation was sufficient to authorize them to do business in Tennessee. Respondent states that it is now the process of obtaining a Tennessee collection service license.

Recommendation: Issue a letter of warning re: unlicensed activity

FINAL RECOMMENDATION: Authorize formal hearing with authority to settle by Consent Order and \$1,000.00 civil penalty.

Board: Concurs.

19. Case No. L-08-CSB-RBS-200800852-1

Complainant alleges that the Respondent refused to provide validation of debt after she made a timely request for same. Respondent states that it would have provided validation

if the Complainant had returned the signed HIPAA release that the Respondent sent her, as the Respondent would have been required to release allegedly protected health information in fulfillment of the request.

Recommendation: Close with a letter of instruction advising that HIPAA does preclude the exercise of rights conferred by the FDCPA.

FINAL RECOMMENDATION: Authorize formal hearing with authority to settle by Consent Order of \$1,000.00. Order to CEASE AND DESIST deceptive and misleading practices.

Board: Concurs.

20. Case No. L-08-CSB-RBS-200800663-1

Complainant alleges that Respondent refused to validate a debt upon his request after Respondent demanded payment of the debt from him. Respondent states that it has responded to Complainant's dispute and that Respondent has admitted responsibility for the debt and has satisfied the outstanding balance prior to this date. Respondent is unlicensed in the State of Tennessee.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$1,000.00.

FINAL RECOMMENDATION: Defer until the next meeting of the Board.

Board: Concurs.

21. Case No. L-08-CSB-RBS-200800711-1

Complainant alleges that Respondent is harassing him by calling him twice in one day, and that he has informed Respondent that the individual they are searching for is his ex-spouse and no longer lives at his address. Respondent states that it called the numbers that the responsible party had provided as place of employment contacts and had no idea that it was calling the same location twice. Respondent provided audio recordings, which confirm that they were trying to ascertain whether the Complainant was the debtor's employer. The Complainant was uncooperative and argumentative when the Respondent inquired as to whether the numbers dialed were good contact information for the debtor.

Recommendation: Close with no action.

Board: Concurs.

22. Case No. L-07-CSB-RBS-200708248-1

The Board originally voted at the March meeting to authorize formal proceedings against this entity with authority to settle the disciplinary issues by payment of a \$2,000 civil penalty and signing of a Consent Order admitting to allegations of 1) unlicensed activity and 2) excessive telephoning of and telephone harassment of a third party while trying to

obtain location information or relay a message. It was subsequently discovered that the entity was in possession of a valid, Tennessee license at the time the alleged conduct occurred.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$1,000.00.

Board: Concurs.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to approve the Legal report as submitted.

MOTION CARRIED

ADMINISTRATIVE ISSUES---INTERIM ADMINISTRATIVE DIRECTOR

Interim Director Hancock presented the Board with the open complaint report. She stated the Collection Service Board has 65 open complaints, and 41 of those complaints are over 180 days old.

The Board asked they be provided with a report at their next meeting explaining why these complaints are more than 180 days old.

Ms. Hancock presented a budget report of the fiscal year 06-07 revenue and expenditures of the Collection Service Board.

SPECIAL CONSIDERATION REQUEST TO RETAKE LOCATION MANAGER EXAM PRIOR TO SEPTEMBER 19, 2008 BY KIM JANKOWSKI:

Ms. Jankowski submitted a written request to the Board for a special consideration allowing her to retake the Tennessee Location Manager Examination prior to the next scheduled examination date of September 19, 2008. She is pregnant and has an estimated due date of September 18, 2008 and will be unable to travel. She took the examination in May and was unsuccessful in passing.

MOTION was made by Elizabeth Trinkler but motion died for lack of a second.

MOTION FAILED

REVIEW OF APPLICATIONS

There were no applications to be reviewed.

OLD BUSINESS

There was no Old Business to discuss.

NEW BUSINESS

Director Hancock gave the Board members an update on the North American Collection Agency Regulatory Association annual conference. She stated the travel request had been submitted but was returned with the instructions that a stronger justification letter was needed. The justification was written and re-submitted. At this time she does not have any information pertaining to travel approval for this conference.

A discussion was held regarding the September Board meeting date. The consensus of the Board members was to change the September meeting from the September 2, 2008 to September 9, 2008.

Then the Board discussed the meeting date for a Rules review. Other dates were considered but August 13, 2008 was decided upon.

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to review the possibilities of making Rule changes for the Tennessee Collection Service Board at a meeting to be held August 13, 2008.

MOTION CARRIED

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to adjourn.

MOTION CARRIED. Meeting Adjourned.

Bart Howard, Chairman

Ann Strong

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

Harold Nichols